

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)

)
Amendment of the Commission's)
Rules Regarding Installment Payment)
Financing For Personal Communications)
Services (PCS) Licensees)

WT Docket No. 97-82

REPLY TO OPPOSITIONS TO PETITION FOR RECONSIDERATION

Wireless Ventures, Inc. (Wireless Ventures) respectfully submits its comments in this proceeding.¹ Wireless Ventures holds five C block PCS licenses, obtained at auction for an average of \$11 per pop. We intend to provide facilities-based PCS services in those five markets and augment this service through affiliations and resale agreements with other C block carriers. We participated actively in this proceeding during 1997, both individually and as members of the National Association of PCS Entrepreneurs (NAPE). Like others commenting in this reconsideration proceeding, we believe that the Commission is obligated to provide C block PCS entrepreneurs commercially reasonable restructuring options, and has not yet done so.

¹ Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licenses, Second Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 97-82, FCC 97-342, rel. Oct. 16, 1997 ("Restructuring Order" and "Further Notice").

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But our particular reason for once again joining the proceeding is to remind the Commission of its own policy goals and predict what will happen if it does not address adequately C block issues and make moderate changes to its rules. While individual C block companies may survive, failure of the Commission to modify its rules will result in a failure of its policy to increase true wireless competition. Contrary to what Commissioner Susan Ness states in her separate statement appended to the Restructuring Order, smaller C block companies "echoing the call" for the Commission to restructure C block debt was not simply a reflection of these companies' "natural desire to pay less."² At best, such a comment shows a fundamental misunderstanding of the interdependence of C block carriers (at least among those that wish to remain unaffiliated with large, incumbent carriers), at worst, this comment casts small businesses serving rural and middle America as opportunists looking to make a fast buck.

The record is filled with examples of small companies' attempts to independently finance the buildout of their markets only to have fallen victim to changed circumstances that resulted from active efforts of incumbent carriers to undermine financial opportunities for the C block's unaffiliated carriers. We were not motivated to participate in this proceeding by a "natural desire to pay less," but by a desire to meet the Commission's goals of increased wireless competition by building out our markets, a desire to remain independent of incumbent carriers, and a desire to bring lower prices and new wireless services to many underserved communities. Again, many C block carriers may survive even if the Commission does not modify its restructuring options, but we will be

² See *Restructuring Order*, Separate Statement of Commissioner Susan Ness at 2.

weakened at our core, and the Commission's own competitiveness goals will be unmet.

At first we hoped that the Commission would act as a partner to the small business entities it created. But at a certain point, incumbent and large company interests saw an opportunity to confuse the issue and hijacked the proceeding. In the name of "auction integrity" these entities sought to finish the job they began in the financial markets, and used the regulatory process to quash any hope of real competition in the wireless industry.

We have read the Petitions for Reconsideration and the Oppositions to these Petitions, as well as the Comments and Replies in the Further Notice that addresses the rules to reauction returned C block spectrum. We note that the majority of petitioners and commenters in this proceeding have supported modest adjustments to the Federal Communications Commission's (Commission or FCC) Restructuring Order. We too believe that, if the Commission is to succeed in reaching its goal to increase wireless competition, it must modify the various options available to C block licensees. To realize this goal, the Commission should permit full use of the down payment in both the Disaggregation and Prepayment Options, and furthermore, recognize that the appropriate and commercially reasonable buyout price in the Prepayment Option should be determined by the net present value (NPV), not the nominal value of the bid.

We urge the Commission to proceed with great caution if it wants to ensure a competitive wireless industry. Be wary of the well-established carrier

that claims that the Commission has made a balanced, Solomon-like, decision, with which it should not tamper for fear of reprisal and litigation.³ Should the Commission heed these words and offer no commercially reasonable options to C block licensees, we have no doubt that, in the second step, these same commenters will then urge the Commission to change its rules regarding eligibility to hold C block licenses and allow them, or their majority-owned affiliate, to participate in a reauction of the licenses.⁴ In fact, Nextel, a company that actively fought restructuring relief for the C block, has already signaled the second step of this two-step process in its comments to the Further Notice. There Nextel suggests that "the Commission cannot expect new entrant, novice entrepreneurs to enter the broad consumer marketplace expecting to compete against the likes of AT&T Wireless, Sprint Spectrum, Bellsouth and Southwestern Bell. . . ." and should thus "make these licenses available to all qualified bidders."⁵ There is little evidence that these companies, including Nextel, have any interest in providing the consumer truly competitive wireless services.⁶

Only at a point later in this proceeding will the Commission learn these companies' true motivations, but by then the Commission will have already made its choice not to have an independent, competitive C block. We urge you to

³ See AT&T Wireless Service Inc. at 1, "the Order. . . properly balances the competing interests and policy goals in this complicated proceeding." (December 29, 1997) See also PrimeCo Personal Communications, L.P. at 3, "the *Second Report and Order* reflects reasonable balancing of the Commission's statutory obligations under the circumstances. . . ." (December 29, 1997)

⁴ For the same reason, the Commission should be equally wary of the well-established carrier that seeks to limit C block licensees' participation in a reauction. See Sprint Corporation at 3.

⁵ See Comments of Nextel Communications, Inc. to Further Notice at 8. (November 13, 1997).

⁶ See Rebecca Quick, *Talk Isn't Cheap*, Wall Street Journal, Sept. 11, 1997, attached.

reconsider your Restructuring Order and adopt modest modifications and thus avoid this result.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "T. Khayat", with a long horizontal flourish extending to the right.

Timothy Khayat
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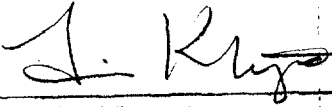
I, Timothy Khayat, hereby certify that on this 13th day of January 1998, I have served via U.S. mail a copy of the Reply Comments of Wireless Ventures, Inc. in WT Docket 97-82 to the persons on the attached list

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Timothy Khayat

TALK ISN'T CHEAP

Ads make cellular-phone services sound practically free. They aren't even close.

By REBECCA QUICK

A COUPLE OF years ago, Jerry Conners answered the sort of advertisement that's so hard to resist these days: sign up for a cellular calling plan for just \$10 a month, and get a free wireless phone thrown in.

Some friends told him that phone bill was more than \$60, she says, and so were most of the bills she has received since. Included in the two paid of Mr. Conners' contract with Ameritech Corp., the regional Bell company based in Chicago, were several hidden costs, including items like "line-time charges" and "airtime up-charge." And when Mr. Conners made several calls while on business outside her apartment local calling area recently, the "roaming charges" pushed her monthly bill to more than \$100.

"I almost defaulted," says Ms. Conners, who works in the public-affairs department at Indiana University Northwest in Gary, Ind.

With competition on the rise, wireless phone companies are scrambling to attract customers with offers for "free" phones and special rates. But consumers are discovering the hard way that these enticing promotions usually lead to three things: unexpectedly high phone bills, a confusing maze of charges and one- to two-year contracts.

And once a deal has been signed, a frustrated cell-phone user usually can't get out of a contract without paying out one as high as \$150.

Though ads can make it seem like consumers are getting a wireless phone free of charge, "in reality you're spending a couple hundred dollars, at the bare minimum," in fees over the life of the contract, says Jerry DeSanto of the Better Business Bureau in New York City.

Defending the Fees

Companies that provide wireless-phone service say these fees shouldn't be a surprise, since the contracts consumers sign clearly spell out charges that will be added to the low rates advertised in ads. And anyway, service isn't unreasonably expensive, providers say.

"We look at cellular service as a value," says Barbara Gowerowski, vice president of marketing for Ameritech's cellular and paging services in Chicago. "And obviously, our customers see it that way."

But consumer advocates—and especially in the case of the latter, the attorney representing them—have gotten so bad that some companies have had to change their plans. In an advertising campaign that began in March, Sprint promoted its introduction of roaming fees by showing a photo of a man who has passed out after signing his cellular-phone bill. "They charged you for roaming. They charged you for line-time connection," the caption reads. "And if they could, they'd charge you for switching calls."

Consumer advocates are doing more than pointing out. They're complaining about it as well.

The Better Business Bureau in New York has received dozens of complaints about hidden costs in just the past few months. So many, in fact, that the organization has conducted a survey of all the

ANATOMY OF A BILL

How cellular users' bottom line gets so big



Account Name: JOHN DOE
Date of Invoice: 07/24/97
Account Number: 00000000
Telephone Number: 000-000-0000

MONTHLY SERVICE CHARGES The basic price for the calling plan. This particular plan includes 30 free calling minutes—which means that if you spend even just a couple of hours a month on the phone, the basic fee will be a tiny part of the total bill.

Previous Balance	Payments Received	Adjustments	Balance Forward	Late Payment Charge	Current Monthly Charges	TOTAL AMOUNT DUE
67.05	67.05	.00	.00	.00	215.07	215.07

SUMMARY OF MONTHLY CHARGES FOR ACCOUNT 00000000

Current Monthly Charges

Monthly Service Charges
Home Airtime Charges
Home Long Distance Charges
Roaming Charges
Other Charges and Credits
Home Usage Taxes

Total Current Monthly Charges

Due by 8/11/97

HOME USAGE TAXES Federal, state and local taxes ranging from 3% to 4.25%, plus a surcharge recorded by state regulators.

AT&T Wireless Services

39.99
125.49
2.89
10.55
1.60
34.54

215.07

WIRE AIRTIME CHARGES This is one of the categories where the costs can really add up. The average bill for this bill listed three minutes, and there were less than three calls a day—a total of 245 minutes. But after the free time, the calls cost an average of 83 cents a minute. So our customer rang up three times as much in airtime charges as in the basic fee.

HOME LONG DISTANCE CHARGES For long-distance calls made while in your local calling area—in this case, New York City and nearby New Jersey.

ROAMING CHARGES A surcharge for use while you and your phone are outside your local calling area. In this case, the subscriber was traveling just eight minutes of roaming. But those minutes added an average of \$1.32.

Things have gotten so bad that

one company has a new marketing

plan and pricing structure that

take advantage of consumer ire

cellular plans available in the New York area with the intent of teaching consumers how to pick the right plan for their needs and what to look out for in the fine print. The bureau intends to publish the survey's results on the World Wide Web (<http://www.newyorkbbb.org>).

When the Customers Roam

Still, for all the complaints, most people don't do much shopping around—in part because they don't know what to look for. Here, then, are some features and fees users should pay particular attention to when looking for a wireless-phone plan:

Roaming Charges: Most cell plans establish a certain home-base area for users. When calls are made within this local area, they are more affordable. But once a caller leaves the designated area, much higher rates kick in. Some plans charge a caller \$1 or \$2 a month just for the ability to roam, and then charge, say, \$1 a minute on top of the regular airtime rate for phone calls made or received when the user is outside the local area.

While one's designated area, calling costs averaged \$1.32 a minute in 1995, according to Research Square Associates Ltd., a Wheaton, Md., consulting firm.

Roaming charges vary depending on the provider and the locale from which the

call is placed. "International roaming is where you really get pained," says Ken Woo, a Seattle-based spokesman for AT&T Corp.'s AT&T Wireless Services unit. He recently spent a week in London on business. He was billed \$15 for making a half-dozen calls back to the office during the trip. (Mr. Woo's company picked up the tab.)

To be sure, wireless providers aren't

calls in 10 Western states without being charged for roaming.

Carriers do have some flexibility in how much of the roaming costs they pass on to consumers, according to Ameritech's Mr. Gowerowski. "Your carrier decides how much to charge the customer," he says.

Activation Fees: Many services charge a one-time fee for turning on your wireless phone, often ranging up to \$35 and sometimes even higher.

Line-time Charges: These fees are charged for calls that are transferred from a cellular system to the regular, wired phone system—which includes the vast majority of calls. So when you call your house from your car, you will be charged not only for the airtime the wireless signal costs, but also for the connection to the regular phone line. These line-time charges usually run from five to 12 cents a minute, on top of any fees for basic airtime and any roaming charges.

And these charges will be assessed to your account whether you're making the call or receiving it—a good reason to limit the number of people who know your wireless phone number. Caller ID, to screen an incoming call before answering the phone, is also available on most systems, but it can cost \$5 or \$6 a month.

Officials in the wireless industry defend line-time fees, noting that they are based on charges a wireless provider must pay to the local phone carrier to transfer a call to a traditional phone connection.

Free Phones: This common search tantalizing, but those who opt for the freebie are likely to get an older, heavier and bulkier model (that retails for around \$125 apiece) rather than a state-of-the-art, slimmer phone (that goes for as high as \$325).

That isn't a problem for consumers who just want to stick the phone in the glove compartment in case of emergency, but business users who want to carry it in their pocket or purse may be better served by shopping around. That way, they can find the phone of their choice and then pick a service plan.

One caution: The phone you buy may lock you into a particular service provider—whether it be analog or higher-quality digital—for the foreseeable future. Many phones work with just one type of service, or one company's system.

"Free" Minutes: As an incentive, many plans offer free minutes to new callers. Usually, that just means that the airtime for calling is free of charge. Fees such as line-time charges still apply. And watch out: Sometimes the free minutes only count when used during weekends or other off-peak hours.

Ms. Quick is a staff reporter for The Wall Street Journal in New York City.

SIZING UP THE PACKAGES

Service plans for light and heavy wireless-phone users from the five cellular and PCS providers in the Denver market

AT&T

LIGHT USER: Basic Plan (cellular)
MONTHLY FEE: \$30
MINUTES INCLUDED: 120 minutes a month of local evening and weekend service
ADDITIONAL MINUTES: Peak rate: 49 cents a minute; off-peak rate: 10 cents a minute
ROAMING: 99 cents a minute in most areas
PHONE: Low-end phone included; subscribers can use any cellular phone, generally costing \$40 and up
HEAVY USER: Advantage 1000 Plan (cellular or digital PCS)
MONTHLY FEE: \$270
MINUTES INCLUDED: 1,000 minutes peak or off-peak
ADDITIONAL MINUTES: Peak rate: 28 cents a minute; off-peak rate: 15 cents a minute
ROAMING: Cellular plans: 99 cents a minute in most areas. PCS: No roaming charges in 10 Western states, though AT&T's PCS network has limited coverage in those areas
FEATURES INCLUDED: Call forwarding, call waiting, three-way calling, detailed billing
PHONE: For cellular plan, subscribers can use any cell phone; for PCS, a special digital phone costing \$150 and up is needed

AIRTOUCH CELLULAR

LIGHT USER: Easy 40 (cellular)
MONTHLY FEE: \$30
MINUTES INCLUDED: 40 minutes
ADDITIONAL MINUTES: Peak rate: 40-41 cents a minute; off-peak rate: 20 cents a minute
ROAMING: 99 cents or less
FEATURES INCLUDED: Call waiting, call forwarding, three-way calling, detailed billing
PHONE: Low-end phone included; subscribers can use any cell phone
HEAVY USER: Easy 800 (cellular)
MONTHLY FEE: \$150
MINUTES INCLUDED: 800 minutes
ADDITIONAL MINUTES: Peak rate: 28 cents a minute; off-peak rate: 15 cents a minute
ROAMING: 99 cents or less
FEATURES INCLUDED: Call waiting, call forwarding, three-way calling, detailed billing
PHONE: Low-end phone included; subscribers can use any cell phone

NEXTEL COMMUNICATIONS

LIGHT USER: Basic (PCS)
MONTHLY FEE: \$40
MINUTES INCLUDED: 100 minutes
ADDITIONAL MINUTES: 35 cents a minute peak and off-peak
ROAMING: No charge
FEATURES INCLUDED: Flat long-distance

rate (when applicable) of 15 cents a minute, Direct Connect (the phone acts as a two-way radio, for 15 cents a minute), numeric paging, voice mail
EQUIPMENT: A PCS phone is needed; prices range from \$170 to \$380
HEAVY USER: Ultra (PCS)
MONTHLY FEE: \$270
MINUTES INCLUDED: 1,000 minutes
ADDITIONAL MINUTES: 22 cents a minute peak and off-peak
ROAMING: No charge
FEATURES INCLUDED: Flat long-distance rate (when applicable) of 15 cents a minute, Direct Connect (the phone acts as a two-way radio, with 200 minutes of free direct-connect time included), numeric paging, voice mail
EQUIPMENT: A PCS phone is needed; prices range from \$170 to \$380

SPRINT

LIGHT USER: 30-Minute Plan (PCS)
MONTHLY FEE: \$17
MINUTES INCLUDED: 30 minutes
ADDITIONAL MINUTES: 34 cents a minute peak and off-peak
ROAMING: All calls made from outside the home area are 50 cents a minute; no additional long-distance fee is charged
FEATURES INCLUDED: First incoming minute is free within the home service area; no interconnect or

activation fees; voice mail; caller ID; call waiting; three-way calling; detailed billing
EQUIPMENT: A PCS phone is needed; ranging in prices from \$140 to \$199

HEAVY USER: 1000-Minute Plan (PCS)
MONTHLY FEE: \$170
MINUTES INCLUDED: 1,000 minutes
ADDITIONAL MINUTES: Customer may choose a flat rate of 18 cents a minute, or a peak rate of 20 cents a minute and an off-peak rate of 10 cents a minute
ROAMING: All calls made from outside the home area are 60 cents a minute; no additional long-distance fee is charged
FEATURES INCLUDED: First incoming minute is free within the home service area; no interconnect or activation fees; voice mail; caller ID; call waiting; three-way calling; detailed billing
EQUIPMENT: A PCS phone is needed; ranging in price from \$160 to \$200

VOICESTREAM WIRELESS

LIGHT USER: Personal Plan (PCS)
MONTHLY FEE: \$30
MINUTES INCLUDED: 60 minutes
ADDITIONAL MINUTES: 20 cents a minute peak and off-peak
ROAMING: No charge within Colorado and Wyoming; 60 cents a minute elsewhere
FEATURES INCLUDED: No long-distance

charges for calls within Colorado and Wyoming; detailed billing; caller ID; first incoming minute is free; call waiting/call hold; voice mail; numeric messaging; special rate of 10 cents a minute for calls to other VoiceStream customers once free minutes are used
EQUIPMENT: PCS phone is needed; ranging in prices from \$130 to \$300

HEAVY USER: Professional Plan (PCS)
MONTHLY FEE: \$95
MINUTES INCLUDED: 500 minutes
ADDITIONAL MINUTES: 21 cents a minute peak and off-peak
ROAMING: No charge within Colorado and Wyoming; 60 cents a minute elsewhere
FEATURES INCLUDED: No long-distance charges for calls within Colorado and Wyoming; detailed billing; caller ID; first incoming minute is free; call waiting/call hold; enhanced voice mail; numeric and text messaging; special rate of 10 cents a minute for calls to other VoiceStream customers once free minutes are used
EQUIPMENT: PCS phone is needed, ranging in price from \$130 to \$300

*From U.S. West Inc.

†From Western Wireless Corp.

Source: Wireless companies